No. 88-756 (3)

Supreme Court, U.S.
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In the Supreme Court
OF THE
United States

OCTOBER TERM, 1988

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO; NEW YORK SHIPPING ASSOCIATION, INC.; COUNCIL OF NORTH ATLANTIC SHIPPING ASSOCIATIONS; ATLANTIC CONTAINER LINE, LTD.; DART CONTAINERLINE COMPANY, LIMITED; HAPAG-LLOYD AKTIENGESELLSCHAFT; "ITALIA" S.P.A.N.; NEDLLOYD LINES, B.V.; PUERTO RICO MARITIME SHIPPING AUTHORITY; TRANS FREIGHT LINES, INC.; P & OCL (TRANS FREIGHT LINES), LTD.; and SEALAND SERVICE, INC.,
Petitioners,

VS.

FEDERAL MARITIME COMMISSION; UNITED STATES OF AMERICA; AMERICAN TRUCKING ASSOCIATIONS, INC.; AMERICAN WAREHOUSEMEN'S ASSOCIATION; NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF AMERICA, INC.; FLORIDA CUSTOM BROKERS AND FORWARDERS ASSOCIATION; INTERNATIONAL ASSOCIATION OF NVOCCS; AND WEST GULF MARITIME ASSOCIATION,
Respondents.

BRIEF OF RESPONDENT WEST GULF MARITIME ASSOCIATION IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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28 pp

QUESTION PRESENTED

Respondent West Gulf Maritime Association, which supports the petition for certiorari herein, would rephrase the question presented as follows:

Where federal labor law compelled unionized employers to bargain in good faith concerning a union's work preservation demand and the resulting labor agreement was lawful under the labor laws, may a non-labor regulatory agency exclude all labor factors from consideration in passing upon the "reasonableness" of the agreement merely because federal labor law did not compel adoption of the particular labor terms?

In response to Rule 28.1, Respondent West Gulf Maritime Association identifies the companies comprising its members and affiliate members as follows:

American Shipping & Chartering, Inc.
Atlantic Container Line/Gulf Container
Ayers Maritime Services, Inc.
Barwil Agencies (Texas), Inc.
Barbours Cut Marine Contractors
Biehl & Co.
Boyd-Campbell Co., Inc.
E. S. Binnings, Inc.
Ceres Terminals, Inc.
C. Flanagan & Sons
Chaparral Stevedoring Co. of Texas
Coastwise, Inc.
Container Terminal of Galveston
Deepsea Agents, Inc.
Del Monte Stevedoring Co.
Dix Industries, Inc.
Evergreen International (USA) Corp.
Fairway Terminal Corp.
Gale Shipping Inc.
Gulf Motorships, Inc.
Gulf & Atlantic Maritime Service, Inc.
Gulf & Eastern S.S. & Chartering, Corp.
Gulf-Ocean Shipping Corp.
I. T. O. Corporation
International Stevedores, Inc.
Jahre Shipping U. S. A., Inc.
James J. Flanagan Shipping Corp.
Johnson Maritime Services (Gulf) Inc.
Kerr Steamship Company, Inc.
Lake Charles Stevedores, Inc.
Lykes Bros. Steamship Co., Inc.
Maersk Container Service Co., Inc.
Maersk Line Agency
Marine Terminal Shipping Company
Navios Ship Agencies, Inc.
Norton, Lilly International Inc.
Oceans International Corporation
Overseas Freight Corp.
P. C. Pfeiffer & Co.
Philen Shipping Co.
Phillips-Parr, Inc.
Pierside Industries, Inc.
Port-Cooper/T. Smith Stevedoring
Port Houston Terminals
Riise Shipping, Inc.
Rogers Terminal & Shipping Corp.
A Division of Cargill Marine & Terminal
Ryan-Walsh Stevedore Co.
Sea-Gulf Maritime, Inc.
Sea-Land Service, Inc.
Shippers Stevedoring Company
Smith & Johnson (Houston) Inc.
Solar Shipping Agency, Inc.
Southern Steamship Agency, Inc.
Southern Stevedoring Co., Inc.
South Side Services, Inc.
States Shipping Agency, Inc.
Strachan Shipping Company of Texas, Inc.
Suderman Stevedores
Teh Tung Steamship (Houston) Inc.
Terminal Service of Houston, Inc.
Trans Freight Lines, Inc.
Transave
Transmarine Navigation Corp.
Universal Shipping Agencies
Waterman Steamship Corporation
Westwind Africa Line Ltd.
Young & Company
Zim-American Israeli Shipping Co., Inc.

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Increased Freight Rates, Eastern and Western Territories, 299 I.C.C. 429 (1956) 16

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Overseas Freight & Terminal Corp.—Extra Charges Caused by Longshoremen Strike, 8 F.M.C. 437 (1965) *aff'd sub nom.* International Packers, Ltd. v. FMC, 356 F.2d 808 (D.C. Cir. 1966) 16

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Texts and Books

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No. 88-756

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OCTOBER TERM, 1988

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO; NEW YORK SHIPPING ASSOCIATION, INC.; COUNCIL OF NORTH ATLANTIC SHIPPING ASSOCIATIONS; ATLANTIC CONTAINER LINE, LTD.; DART CONTAINERLINE COMPANY, LIMITED; HAPAG-LLOYD AKTIENGESELLSCHAFT; "ITALIA" S.P.A.N.; NEDLLOYD LINES, B.V.; PUERTO RICO MARITIME SHIPPING AUTHORITY; TRANS FREIGHT LINES, INC.; P & OCL (TRANS FREIGHT LINES), LTD.; and SEALAND SERVICE, INC.,
Petitioners,

vs.

FEDERAL MARITIME COMMISSION; UNITED STATES OF AMERICA; AMERICAN TRUCKING ASSOCIATIONS, INC.; AMERICAN WAREHOUSEMEN'S ASSOCIATION; NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF AMERICA, INC.; FLORIDA CUSTOM BROKERS AND FORWARDERS ASSOCIATION; INTERNATIONAL ASSOCIATION OF NVOCCS; AND WEST GULF MARITIME ASSOCIATION,
Respondents.

BRIEF OF RESPONDENT WEST GULF MARITIME ASSOCIATION IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

This case involves a decision of the Federal Maritime Commission ("FMC") ordering ocean carriers not to carry out provisions of a labor agreement, held lawful by this Court under the labor laws, because the FMC found the labor agreement to be "unreasonable" under the Shipping Acts. (Appendix to Petition for Certiorari "App." B, 70a et seq.; *See NLRB v. International*

Longshoremen's Ass'n ("*ILA II*"), 473 U.S. 61 (1985); *NLRB v. International Longshoremen's Ass'n*, ("*ILA* I"), 447 U.S. 490 (1980).) The FMC reached this conclusion only by expressly excluding from its "reasonableness" determination the labor purpose of the agreement, federal labor policy, the employers' mandatory duty to bargain in good faith on the subject, and the economic consequences of the union's exercise of its federally protected right to strike in the event that the employers refused to accept this labor compromise. (*See* App. A, 16a, 30a-31a, 45a, 57a, App. B, 161a, 172a) Giving any weight to labor factors in the Shipping Act analysis was held to be "inconsistent with . . . [the FMC's] statutory responsibilities". (App. A, 57a)

PARTIES, OPINIONS BELOW, JURISDICTION AND APPLICABLE STATUTES

The references to the parties to the proceeding, to opinions below, to statements of jurisdiction and to applicable statutes as set forth in the petition for writ of certiorari filed by petitioners International Longshoremen's Association et al., November 3, 1988, are hereby incorporated by reference herein.

STATEMENT OF THE CASE

Petitioners are a union which is the bargaining representative of dockworkers at North Atlantic ports (hereinafter "ILA"), associations of their employers (hereinafter "NYSA" and "CONASA") and ocean common carriers regulated by the Federal Maritime Commission ("FMC") which are members of NYSA and CONASA. Respondent West Gulf Maritime Association ("WGMA") is a multiemployer collective bargaining association consisting of ocean carriers, stevedores, vessel agents and terminal operators whose jurisdiction covers Texas ports and the Port of Lake Charles, Louisiana.

Labor relations between the maritime employers and the ILA are subject to the National Labor Relations Act (29 U.S.C. § 151 et seq. (1982)). The labor laws impose on the employers a mandatory duty to bargain in good faith (29 U.S.C. § 158(a)(5)) when the union makes collective bargaining demands for preser-

vation of traditional work (29 U.S.C. § 158(d))[1] and protect the union's right to strike to apply economic pressure to obtain its bargaining goals.[2] In addition, these laws set boundaries by prohibiting labor agreements or conduct having certain secondary effects. (29 U.S.C. §§ 158(b)(4)(B) and (e)). The labor agreement was also subject to the antitrust laws and to the non-statutory labor exemption therefrom. Finally, the ocean carriers' rate tariffs and related commercial and terminal practices are subject to regulation under "reasonableness" standards set forth in provisions of the Shipping Acts of 1916 and 1984. These provisions, which do not apply to union conduct, prohibit "unreasonable" terminal practices, "unjust" economic discrimination or "undue" preferences.[3] (46 U.S.C. §§ 801, 813, 815, 816, 817a and 46 U.S.C. §§ 1701(b)(6)(C), 1709(b)(12), 1709(d)(1).)

The principal non-governmental parties adverse to petitioners are non-ILA employers who are freight consolidators, many of whom also operate as FMC-regulated non-vessel operating common carriers ("NVOCCs") by assuming carrier-type responsibility for ocean carriage under their own bills of lading. The ILA objected to performance of cargo handling work by these non-ILA employers insofar as they stuffed or stripped ocean containers with less-than-containerload ("lcl") shipments. Such shipments had traditionally been stowed by ILA labor directly in holds of vessels or had been consolidated at dockside terminals with other shipments in containers or on pallets. (*See ILA* II; App. B, 76a-81a.) The non-ILA employers were able to perform this function at non-ILA facilities with lower labor costs because the ocean carriers had adopted fully containerized services using cargo containers which could be readily transported to inland

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[1] *Fibreboard Paper Products Corp. v. NLRB*, 379 U.S. 203, 211-12 (1964); *Road Sprinkler Fitters v. NLRB*, 789 F.2d 9, 16 (D.C. Cir. 1986); *see NLRB v. Truitt Mfg. Co.*, 351 U.S. 149 (1956).

[2] *NLRB v. Insurance Agents Int'l*, 361 U.S. 477, 489 (1960).

[3] Shipping Act jurisprudence makes no operative distinctions among the terms "unreasonable", "unjust" and "undue"; they are collectively referred to herein simply as "reasonable" or "unreasonable".

points to be "stuffed" or "stripped" and tendered to (or received from) ocean carriers as a full container. (App. A, 5a-9a)

The Labor Agreement At Issue

The employers assented to a labor agreement that included the instant "Rules on Containers" in 1968. The Rules were a compromise reached after lengthy longshore strikes that paralyzed a substantial portion of U.S. export and import trades and after governmental intervention through a presidentially appointed mediator.[4] The labor agreement and similar agreements in the Gulf awarded certain port area "lcl" cargo stuffing and stripping work to ILA labor but exempted the predominant cargo movements that consist of single shipment containers and lcl cargo that is containerized at points more than 50 miles from the port. Since a closed container arriving at the docks may contain either port area lcl cargo subject to ILA work jurisdiction or, much more commonly, exempt cargo, the Rules required the ocean carriers having access to documents disclosing cargo contents and origins/destinations to enforce the agreement. (App. A, 8a-9a; App. B, 82a-86a)

To the extent that a work preservation agreement like the Rules on Containers is effective it necessarily prevents non-union employers or their subcontractors from using their own lower cost labor to perform the covered work. Similarly the labor agreement may reduce the non-union employers' profits either because facilities having higher labor costs must be used or because the non-union employers' profits are related in part to performing the particular labor function. Since such an agreement determines only who performs the labor function, the effect on ultimate consumers of the services—here the actual shippers or consignees of port area lcl cargo—is one of cost and convenience and not

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[4] App. A, 8a. The east coast strike lasted 57 days on the North Atlantic coast and over 100 days at Gulf ports, including ports covered by labor agreements to which respondent WGMA and its members are parties.

whether the function continues to be performed at all.[5] There is no evidence that port area lcl or NVOCC cargo would not be accepted for shipment under the Rules or would not be consolidated with other lcl cargo into containers so long as an ILA dock area facility is used to stuff or strip the container.

The non-ILA employers mounted legal challenges to the labor agreement under three federal statutes all raising the same basic issues. The primary attack under the National Labor Relations Act urged that the Rules constituted a prohibited hot cargo agreement or secondary boycott. (*See ILA* I) A second line of attack under the antitrust laws was mounted on group boycott theories paralleling the labor law claims and based on arguments that the labor exemption from the antitrust laws did not apply.[6] Thirdly, the non-ILA employers pursued actions under the Shipping Acts of 1916 and 1984 to which only the ocean carrier parties to the labor agreement were subject. (*See* App. A, 11a-20a)

After more than twenty years of litigation in multiple forums the conflict between the ILA and non-ILA employers was resolved and the agreement upheld under the labor laws as a valid work preservation agreement. (*ILA* II) The antitrust actions by the NVOCC/consolidators, which had been allowed to proceed based on a court's denial of a labor exemption at a time when the Labor Board had ruled the agreement unlawful, was vacated by

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[5] Since the method of enforcing the work preservation rules was a provision which precluded furnishing non-ILA port area consolidators with ocean carrier-owned or leased containers either (a) port area lcl cargo would have to be delivered (or picked up) by NVOCCs, by cargo owners or by their representatives at an ILA facility and consolidation/containerization performed there; as (b) port area lcl cargo would have to be transported to non- ILA cargo handling facilities outside the 50-mile port zone.

[6] *See Intercontinental Container Transport Corp. v. New York Shipping Ass'n*, 426 F.2d 884, 887 (1970); *Consolidated Express Inc. v. New York Shipping Ass'n.*, 602 F.2d 494 (3d Cir. 1979), *judgment vacated and case remanded*, 448 U.S. 902 (1980), and 641 F.2d 90 (3d Cir. 1981) (on remand).

this Court when the agreement was upheld under the labor laws. (*Consolidated Express, supra,* 448 U.S. 902 (1980).)

Initial Shipping Act Proceedings

The Shipping Act litigation was between the same economic interests and concerned the same basic issues and claims of injury as those before the NLRB. It commenced in 1973 and outlasted the other cases. In 1978, when the agreement had been held unlawful under the labor laws, the FMC rejected the position that the agreement was within an outright labor exemption from the Shipping Acts (App. A, 12a, App. B, 141a). However, unlike the reexamination of the labor exemption issue that occurred under the antitrust laws after the agreement was upheld under the labor laws, the FMC did not reexamine its denial of an outright labor exemption.

All the Shipping Act provisions in issue have two basic elements: first whether a prima facie case exists because a shipper or class of cargo is treated differently than another type of shipper or cargo and, second, the more important question of whether that difference is "reasonable" and hence justified. (App. B, 182a; *see* App. B, 176a-190a) "Reasonableness" determinations depend materially on the economic purpose served by a challenged rate, tariff rule or practice.[7] Since carrier tariffs filed with the FMC consist almost entirely of ocean rates or terms and conditions governing those rates,[8] the existing body of Shipping Act "reasonableness" law focuses on transport economics such as cost justifications for a surcharge, competition via different routes, geographical factors etc.[9] The Rules on Containers, which the FMC had compelled ocean carriers to add to their tariffs, on their face required use of ILA facilities which were applicable to port

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[7] *See Investigation of Overland & OCP Rates and Absorptions,* 12 F.M.C. 184 (1969), *aff'd. sub nom. Port of New York v. FMC,* 429 F.2d 663 (5th Cir. 1970), *cert. denied,* 401 U.S. 909 (1971).

[8] *See* 46 C.F.R. Parts 552, 580 (1987); *Agreement Provisions on Loyalty Contracts,* (Slip Op. 40, Oct. 31, 1988 (FMC)).

[9] *See, e.g., Imposition of Surcharge on Cargo to Manila,* 8 F.M.C. 395 (1965); *Overland & OCP Rates, supra,* 12 FMC at 206.

area lcl cargo but not to other cargo. This left the agreement's justification on "reasonableness" grounds as the sole question for disposition by the FMC. (App. A, 31a)

The only basis for an affirmative justification of the labor agreement on "reasonableness" grounds concerned its labor purpose, the labor problems avoided by its adoption and its lawful status under the labor laws. (*See* App. A, 31a) In its first decision on the merits, rendered at a time when the Rules had been held unlawful under the labor laws, the FMC determined that labor factors were entitled to consideration but to little weight and hence it held unreasonable and unlawful the distinctions which the Rules made between lcl and full containerload and between port area and non-port area cargo. (*Sea-Land Service, Inc.—Proposed Rules on Containers,* 21 F.M.C. 1 (1978), *remanded sub nom. Council of North Atlantic Shipping Ass'ns v. FMC ("CONASA"),* 672 F.2d 171 (D.C.Cir.), *cert. denied,* 459 U.S. 830 (1982).)

In explaining why it would give little weight to the only relevant factor which could constitute a reasonableness justification for this or virtually any other labor agreement, the FMC reasoned that a collective bargaining agreement is a factor "which *affects* but is not *a part of* the transportation aspects of a shipper's relationship with his carrier," and hence it stated that, although the collective bargaining source of the rules "is a factor to be considered," it "need not be given overwhelming priority or weight as a transportation factor by which to justify dissimilarity of treatment." (21 F.M.C. at 4 (emphasis in original).) The FMC rejected contentions that its standard for decision constituted a rule of *per se* unreasonableness for labor agreements. (*Id.*)

In 1980 the Court of Appeals for the District of Columbia Circuit affirmed the FMC's rejection of an outright labor exemption for the agreement, but remanded the case to the FMC for consideration of two intervening decisions by this Court. (*CONASA, supra;* see *ILA* I; *FMC v. Pacific Maritime Ass'n,* 435 U.S. 40 (1978) ("*PMA*").) The court directed the FMC to consider labor policy and labor factors in addressing the Shipping Act merits. It noted that *PMA* "asserts the importance of labor policy in reaching substantive shipping law decisions" and makes

the necessity of the labor provisions "a factor that the FMC should consider in making its substantive determination of legality". (*CONASA, supra* 672 F.2d at 188 n.135, see 181, n.80, 189.) On remand, however, the FMC reaffirmed its original decision, asserting that it had already complied with the mandate to consider labor factors. (*Sea-Land Service, Inc.—Proposed Rules on Containers,* 21 S.R.R. 852 (FMC 1982).) The court of appeals vacated this decision and ordered further FMC proceedings stayed until completion of a companion FMC case, Docket 81-11, which the FMC had initiated a year earlier. (*See* App. C, 228a)

The Shipping Act Proceedings In This Case

FMC Docket 81-11, which is before the Court, was a fresh FMC proceeding triggered by NVOCC complaints about implementation of the Rules following this Court's decision in *ILA I.* After initially directing its Administrative Law Judge not to consider any further labor factors, the FMC, following the court of appeals' order on remand in *CONASA*, amended that directive, because the court's decision had "*made clear that labor policy factors must be considered in Shipping Act deliberations*". (*"50-Mile Container Rules"—Implementation By Ocean Common Carriers Serving US Atlantic & Gulf Ports*, 21 S.R.R. 845, 846 (FMC 1982) (emphasis supplied).)

The court's and the FMC's directive did not state how labor factors were to be considered or what weight should be given to them. The FMC's Administrative Law Judge sought to apply labor factors by interpreting the directive as requiring a balancing of benefits to the union and its members against detriments to NVOCC/consolidators. The ALJ concluded that the labor agreement was reasonable under Shipping Act standards and hence lawful. (App. C, 262a-263a)

The FMC reversed. Going beyond its earlier holding in *Sea-Land* that labor factors should be considered but given relatively little weight, the FMC held that labor factors should be excluded entirely from consideration even though the agreement had by then been upheld under the labor laws. It held that the reasonableness of a labor agreement affecting shippers of cargo

depended solely on consideration of those non-labor "transportation" factors that had been used in prior non-labor cases to justify the reasonableness of carrier tariff rates and governing rules. (App. B, 133a, 161a; *see* App. A, 16a)

The FMC relied on cases under the Interstate Commerce Act, on which the Shipping Acts were modeled. (*See* App. B, 161a-63a, *discussing Galveston Truck Line v. Ada Motor Lines*, 73 M.C.C. 617 (1957).) The FMC narrowly read this Court's directive to the ICC in *Burlington Truck Lines v. United States*, 371 U.S. 156, 172 (1962), that "[t]he policies of the Interstate Commerce Act and the labor act necessarily must be accommodated, one to the other" as requiring only that an agency issuing a cease and desist order prohibiting compliance with a labor agreement adjust the effective date of that order to accommodate labor considerations. (App. B, 75a, 172a, 192a.) Thus, the FMC's deference to labor considerations was confined to foregoing monetary penalties and allowing a 90-day grace period to permit reopening of the agreement for further collective bargaining. (App. B, 75a, 192a.)

The Court of Appeals' Decision

A different panel of the court of appeals than had remanded the FMC's decision in *CONASA* affirmed the FMC's ruling that all labor factors were to be excluded in passing on the Shipping Act reasonableness of a labor agreement. However, the court's holding went further. It held that an agency need not consider factors applicable under statutes not enforced by the forum agency unless the conduct being examined is directly mandated by another federal statute. (App. A, 47a-48a, 57a, 62a-64a) Here the labor laws did not actually compel the employers to accede to the Rules in the face of ILA strikes protected by the labor laws. Thus, the decision below concludes that federal labor law requiring employers to bargain in good faith with respect to a union demand for work preservation does not create a "true conflict" entitling labor factors to any consideration. (App. A, 47a-48a, 57a)

SUMMARY

The holding that a regulatory agency passing upon the "reasonableness" of a labor agreement that is lawful under the labor laws should exclude all labor factors from consideration conflicts with this Court's decision reversing the ICC's application of the Interstate Commerce Act to a hot cargo clause in a labor agreement. (*Burlington Truck Lines v. United States,* 371 U.S. 156 (1962).) An agency or a court must reconcile, insofar as possible, inconsistent policies under different statutes (see *Radzanover v. Touche Ross & Co.,* 426 U.S. 148, 153-54 (1976)). Adherence to this duty is a particular requisite in the labor area. As applied to administrative agencies, the holdings here construe that duty so narrowly that it applies only where another statute directly commands the conduct being reviewed. The holding further conflicts with decisions of this Court and several circuit courts of appeals that the "rule of reason" under the antitrust laws and similar substantive standards of the Shipping Act require giving weight to labor factors in passing on the "reasonableness" of a labor agreement. (*e.g. FMC v. Pacific Maritime Ass'n,* 435 U.S. 40, 61, 63 (1978); *New York Shipping Ass'n v. FMC,* 495 F.2d 1215, 1222 (2d Cir.) *cert. denied,* 419 U.S. 964 (1974).)

This controversy, in its labor law context, has twice been before this Court. (*ILA I* and *ILA II supra*) The issues and the economic consequences of their resolution are of national importance. The disposition of the case affects labor agreements and labor peace on all coasts and hence virtually all United States exports, imports and domestic offshore commerce. The same basic issues in this case were resolved in favor of the agreement under the labor laws in prior and extensive litigation between the same economic interests. A proper resolution of the Shipping Act merits of this dispute required the FMC to accord a presumption of lawfulness to the labor agreement and to give deference to the Labor Board's decision resolving substantially similar issues.

ARGUMENT

1. a. In *Burlington* the Court reversed an ICC grant of motor carrier operating authority to connecting carriers affected

by a hot cargo clause in the petitioning carriers' labor agreement. (*Burlington, supra,* 371 U.S. 156.) The ICC issued the authority under relaxed standards to enable the connecting carriers to have direct access to the cargo. The agency action reversed was far less intrusive in its impact on the labor bargain than is the case here and involved a labor agreement that was arguably unlawful under the labor laws and was clearly unenforceable by union action at the time of the ICC's decision. (371 U.S. at 169-70; *see Local 1976, United Brotherhood of Carpenters and Joiners v. Labor Board,* 357 U.S. 93, 106-07 (1958).)

Even though the hot cargo clause in the *Burlington* labor agreement had been clearly prohibited under the labor laws by the date of the Court's decision, so that not even an indirect conflict existed between the regulatory and labor statutes, the Court directed the ICC on remand to accommodate labor policies "in a most delicate area" because any order issued would have "important consequences upon the collective bargaining processes between the union and the employer. *The policies of the Interstate Commerce Act and the labor act necessarily must be accommodated, one to the other*". (*Id.* 371 U.S. at 172)(emphasis supplied).

Five Justices in *Burlington* went further and concluded that the ICC was precluded from applying the Interstate Commerce Act to interfere with rights under collective bargaining agreements that were lawful under the labor laws. Four specially concurring Justices who had joined in the Court's Opinion wrote that any ICC "cease and desist order should have been appropriately limited to requiring the carriers to provide service *in a manner and to the extent compatible with their labor agreements and the union's rights and duties under federal labor law*" (*Id.* at 177 (Goldberg, J., concurring) (emphasis supplied).) Justice Black, concurring and dissenting, similarly concluded: "Nothing in the Interstate Commerce Act gives the Commission power to prohibit carriers or unions under the circumstances shown by this record from doing that which the Labor Act permits them to do." (*Id.* at 175). The decisions below conflict both with the *Burlington* Court's directive to "accommodate" the labor laws and with the conclusion, to which five Justices subscribed, that the ICC

should not order relief inconsistent with obligations under a labor agreement lawfully enforceable by the union under the labor laws.

b. The court of appeals' decision also conflicts with more broadly applicable decisions of this Court under which quasi-judicial administrative agencies, as well as courts, are directed to reconcile two differing statutes and to seek to apply both where possible. (*See Radzanover v. Touche Ross & Co.*, 426 U.S. 148, 153-54 (1976); *Commonwealth of Pennsylvania v. ICC*, 561 F.2d 278, 292 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1011 (1978) (ICC commended, citing *Radzanover*, for deferring to conflicting FMC Shipping Act regulation of rail/ocean joint tariffs).) The FMC referred to this principle as "fundamental" but found it inapplicable because, in the absence of a positive command in the labor laws to adopt the Rules, there was a "false conflict" between the two statutes. (App. B, 171a) The court of appeals narrowed the *Radzanover* rule drastically, holding that the FMC has no duty to accommodate the labor laws in the absence of a "true conflict," a term which it restrictively defined. Under the D.C. Circuit's test, an agency has no duty to consider any other statute or policy than the statute it administers unless the other statute directly commands (or prohibits) the precise conduct that the forum agency is evaluating for "unreasonableness". (App. A, 45a-49a, 57a-58a)[10]

The court of appeals' holding would be more consistent with the *Radzanover* rule if confined to situations in which the agency's own statute is reasonably explicit in prohibiting or commanding the conduct and where the conduct is merely permissive under, and is not positively encouraged by, the other statute. Here, however, the principle was applied to circumstances in which the agency's own organic statute does not expressly prohibit the particular conduct and merely permits the agency itself to create a prohibition through an ad hoc "unreasonableness" determination. Paradoxically, it is the labor laws, not the

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[10] Accordingly, the court of appeals emphasized that "[The labor laws] . . . most emphatically do not impose upon or guarantee to employers and workers specific terms and conditions of employment." (App. A, 57a)

Shipping Acts, which contain the more specific command. They require the parties to bargain in good faith[11] concerning wages, hours and working conditions, including union demands for work preservation.[12] They protect the union's right to bring all maritime commerce to a halt for months to compel acceptance of such demands, and they supply presidentially appointed mediators to help bring the parties to a compromise. (*See NLRB v. Insurance Agents Int'l, supra*, 361 U.S. at 489; App. A, 8a.) Taken together these features of the labor laws create, and are intended to create, a powerful combination of legal, economic and political forces which lead to negotiated compromises like the Rules.[13]

The court of appeals' black-and-white distinction between conduct that is compelled under another statute ("true conflict") and conduct that is voluntarily adopted ("false conflict") is arbitrary because it compels such a wide variety of situations to fall into a category in which no consideration at all is given to the other statute. It thus confuses the question of the proper weight which an agency should give to a non-forum statute or policy with the question whether *any* consideration is required. (*See* App. A, 47a-48a) In a complex economy, regulated persons are invariably subject to a multiplicity of statutory regimes in which the nature of conduct that is judged under general and substantially discretionary standards in one statute is encouraged and substantially shaped by the requirements and policies of another. Petitioners' position is not, as the court of appeals seemed to assume, that

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[11] The duty to bargain in good faith requires a sincere effort to reach a common ground and is judged by the parties' actual conduct. (*See NLRB v. Truitt Mfg. Co.*, 351 U.S. 149, 153-54 (1956); *Reed & Prince Mfg. Co.*, 96 N.L.R.B. 850, 857-59 (1951), *enforced, NLRB v. Reed & Prince Mfg. Co.*, 205 F.2d 131 (1st Cir.), *cert. denied*, 346 U.S. 887 (1953).)

[12] *Fibreboard, supra*, 379 U.S. at 210-11; *Road Sprinkler, supra*, 789 F.2d at 16.

[13] "One of the primary purposes of the [labor] Act is to promote the peaceful settlement of industrial disputes by subjecting labor-management controversies to the mediatory influence of negotiation." (*Fibreboard, supra*, 379 U.S. at 211.)

mere compliance with one statute should automatically excuse compliance with a command in another. (App. A, 47a) The point is rather the proper weight to be accorded to another statute, a question that can only be resolved in light of the particular circumstances, including the extent to which the conduct is shaped, protected or regulated by the other statute, the importance of the other statute's objectives, the nature of the conduct and the degree of discretion conferred by the forum agency's own statute.

c. Finally, the decisions below conflict with decisions of this Court and several courts of appeal under the Shipping Acts and the antitrust laws that labor factors are to be considered under "reasonableness" standards on the merits after an outright threshold labor exemption is denied. Under the antitrust laws, labor factors are considered under the judicially created rule of reason, and under the Shipping Acts they are to be considered as part of statutory reasonableness tests. (*FMC v. Pacific Maritime Ass'n*, 435 U.S. 40, 61, n.19, 63 (1978), *citing Connell Construction Co. v. Plumbers & Steamfitters*, 421 U.S. 616 (1975), *and Meat Cutters v. Jewel Tea Co.*, 381 U.S. 676, 688-89 (1965) (opinion of White, J.).)[14] As Justice Holmes wrote concerning a labor agreement challenged under the rule of reason, there is no "unreasonable restraint of trade" where "the purpose of the arrangement is to secure employment for all the men during the whole of the two seasons . . . ." (*National Ass'n of Window Glass Manufacturers v. United States*, 263 U.S. 403, 413 (1923).)

In *PMA, supra*, the Court held that a labor agreement fell outside a threshold Shipping Act labor exemption and had to be evaluated by the FMC under former section 15 of the 1916

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[14] A number of courts of appeals have required consideration of labor factors in testing labor agreements under the Sherman Act. *Berman Enterprises, Inc. v. International Longshoremen's Ass'n*, 644 F.2d 930, 936-37 (2d Cir. 1981), *cert. denied*, 454 U.S. 965 (1981); *Ackerman-Chillingworth v. Pacific Electrical Contractors Ass'n*, 579 F.2d 484, 491-92 (9th Cir. 1978) (en banc), *cert. denied*, 439 U.S. 1089 (1979); *Webster County Memorial Hospital, Inc. v. United Mine Workers*, 536 F.2d 419 (D.C. Cir. 1976).

Shipping Act under the same "reasonableness" standards and sections of the Act involved in this case. The Court, drawing an analogy to the consideration of labor factors on the merits required in antitrust rule of reason cases (*Id.* at 61, n.19), stated that the FMC could take labor factors into account on the merits in an "accommodation of the Shipping Act and the labor laws" (*Id.* at 63).

Similarly, the decision below conflicts with a decision of the Second Circuit which, after denying a threshold labor exemption in a Shipping Act case, directed the FMC that

> Plainly, the labor interests in the agreement do not evaporate upon a finding of FMC jurisdiction; *those interests demand the Commission's continuing attention throughout the process of investigating the status of the agreement under section 16 and 17. (New York Shipping Ass'n v. FMC,* 495 F.2d 1215, 1222 (2d Cir.), *cert. denied,* 419 U.S. 964 (1974)) (emphasis supplied).

The FMC and the United States were correct in representing to this Court in *PMA* that labor considerations must be weighed under the very provisions of the Shipping Act here at issue:

> Since maritime employers are permitted to bargain as a group, and since they are required to bargain about certain subjects, the resulting agreements *must have some exemption from successful challenge . . . under the substantive principles in sections 16 and 17 of the Shipping Act.* (Brief for the Federal Maritime Commission and the United States at 37, *FMC v. Pacific Maritime Ass'n.,* 435 U.S. 40 (1978); (emphasis supplied); *see* 18 F.M.C. at 213 (ordering paragraph 4).)

There appear to be no prior Shipping Act cases excluding any relevant factor, or any relevant federal law or policy, from the FMC's determinations as to whether conduct under the Shipping Acts is to be prohibited as "unreasonable". This Court affirmed the FMC's own decision to incorporate antitrust policy into the FMC's application of former section 15 of the 1916 Shipping Act so that the FMC had to weigh conflicting antitrust and Shipping Act considerations before deciding to apply an antitrust exemp-

tion to an agreement. Likewise it required the ICC to consider antitrust law policy in grants of carrier operating authority. (*FMC v. Aktiebolaget Svenska Amerika Linien,* 390 U.S. 238, 245, n.4 (1968); *see McLean Trucking Co. v. United States,* 321 U.S. 67, 79-80 (1944).) The FMC itself has incorporated obscure provisions of the 1920 and 1936 Merchant Marine Acts that it does not administer to make them Shipping Act commands.[15] It has used President Ford's anti-inflation policy as a "reasonableness" justification for giving lower rates to larger than to smaller shippers,[16] and it has treated labor factors and costs as relevant to the reasonableness of tariff provisions.[17] This case stands alone in excluding from consideration the only factors that are relevant to such a determination.

2. The consequences of this labor agreement and of the legal issues presented are of national importance as the Court's two grants of writs of certiorari in the Labor Board cases involving this agreement and the Court's acceptance of the *Burlington* case suggest. The labor issues in this case have dominated waterfront

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[15] Section 8 of the Merchant Marine Act of 1920 (46 U.S.C. § 867) directing the Secretary of War to study port conditions and to report port discrimination by railroads to the ICC has in past cases been incorporated by the FMC into affirmative Shipping Act commands applied to ocean carriers. (*See Intermodal Service to Portland, Oregon,* 17 F.M.C. 106, 126 (1973); *Overland & OCP Rates, supra,* 12 F.M.C. at 224 and 429 F.2d at 670; *see In Re: Far East Conference Amended Tariff Rule,* 20 F.M.C. 772, 774-75 (1978) (applying section 205 of the Merchant Marine Act of 1936 (46 U.S.C. § 1115) as Shipping Act jurisprudence).

[16] *Agreement 9955-1,* 18 F.M.C. 426, 487 (1975).

[17] (*See Imposition of Surcharge at United States Atlantic & Gulf Ports,* 10 F.M.C. 13, 24-25 (1966) (carriers' right to recover for strike costs); *Increased Freight Rates, Eastern and Western Territories,* 299 I.C.C. 429, 434, 451 (1956) (general rate increase justified by increased labor costs); *Overseas Freight & Terminal Corp.—Extra Charges Caused by Longshoremen Strike,* 8 F.M.C. 437 (1965) *aff'd sub nom. International Packers, Ltd. v. FMC,* 356 F.2d 808 (D.C. Cir. 1966) (carriers may recover for strike cost under bill of lading without a tariff provision).)

labor relations on all United States coasts[18] for the past twenty years. The issues are volatile ones because they arise in a context in which improvements in labor efficiency by the maritime employers, through containerization and otherwise, have greatly reduced overall work opportunities for longshoremen. (App. B, 77a-78a) Containerization also created the mobile conditions under which the type of labor- intensive, job producing cargo handling work that did remain could be readily transported to non-union facilities away from the docks. As the FMC recognized, its action gave the union an opportunity to reopen current collective bargaining agreements. (App. B, 192a)

Virtually all export, import and domestic offshore commerce of this country moves via ocean carriers, and a very large portion of that total is affected by this or similar labor agreements on all U.S. coasts. In the event the FMC's position were to prevail, the possible consequences include: (a) lawful industrial actions by the union disrupting commerce at a large cost to the economy and to the NVOCC/consolidators that would far exceed extra labor costs created by the agreement; (b) union actions directly enforcing the existing work award at a cost in disruption of trade that is likely to exceed extra labor costs created by the agreement;[19] (c) other fresh and costly bargaining demands by the union if the agreement is reopened and whose nature cannot be presently predicted. Of course it is also possible, but not likely, that the union will simply accept a defeat after two decades of struggle. Given the range and seriousness of the consequences, however, applying a test to a labor agreement that permits it no justification after the agreement has been upheld under the labor and antitrust laws is unduly rigid and constitutes a particularly unwise gamble

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[18] A comparable agreement resolving comparable problems on the west coast is still before the Labor Board and the FMC. *See California Cartage Co. v. NLRB,* 822 F.2d 1203 (D.C. Cir. 1987); *Petition No. P8-88—American Trucking Associations; Filing of Petition,* 53 Fed.Reg. 34836 (FMC Sept. 8, 1988).

[19] A pernicious result of the decisions below is that, because the labor bargain remains lawful under the labor and antitrust laws, it is enforceable by direct action by the union, which is not subject to FMC orders.

that large and extremely costly transportation consequences will not be the result.

The FMC's decision ignores the entire unfortunate history of similar governmental injunctive actions intervening in labor disputes and misses history's important lessons. One of the early applications of the labor injunction issued under non-labor statutes, but discredited and abandoned after passage of the Norris-Laguardia Act (29 U.S.C. §§ 101-109), occurred under the Interstate Commerce Act. The same theory of common carrier obligations relied upon by the FMC here for its cease and desist order directed to the employers' compliance with the labor bargain was used to enjoin union actions. In *Toledo, A.A. & N.M. Ry v. Pennsylvania Co.,* 54 Fed. 730, 741 (N.D. Ohio 1893) the court enjoined a railway strike as illegal per se under the Interstate Commerce Act, just as the courts at the time similarly applied the antitrust laws. (*See Duplex Printing Press Co. v. Deering,* 254 U.S. 443, 467-68 (1921); *In re Debs,* 158 U.S. 564, 586 (1895); F. FRANKFURTER & N. GREENE, THE LABOR INJUNCTION 6-8, 212-13 (1963); H. Hovenkamp, *Labor Conspiracies in American Law,* 1880-1930, 66 Tex. L. Rev. 919, 950-65 (1988).) The FMC's decision and order creates a new form of administrative labor injunction directing employers not to comply with provisions in labor agreements lawfully won by union strike action and upheld by this Court as lawful under the labor laws.

3. A proper disposition of this case in which the FMC would give appropriate weight to labor factors is not difficult, complex or "illogical or intellectually untenable" as the FMC asserted in justification of its decision to give no weight to labor factors. (*See* App. B, 169a, see 168a-71a). At minimum, an agreement on a mandatory bargaining subject that is lawful under the labor laws should be given a strong presumption of "reasonableness" under the Shipping Acts. Further, there are prudential reasons why the FMC should defer to the result reached under the labor laws, just as the ICC elected to defer to the FMC and to Shipping Act regulation of rail/ocean intermodal tariffs. (*See Commonwealth of Pennsylvania v. ICC, supra,* 561 F.2d at 292) The essence of this case involves claims of prohibited secondary effects for which the labor laws provide both the appropriate substantive standards

for making decisions and remedies that apply to both parties to the agreement. By contrast the principal interests protected by the Shipping Acts are only indirectly affected by the labor agreement and those Acts do not govern the union's conduct. The dispute here, even in its commercial manifestation, is not one between regulated ocean carriers and the actual shippers and consignees of port area lcl cargo whose interests are protected by the Shipping Acts. Rather it is a conflict between unionized and non-unionized transportation service facilities each of which is regulated as such by the FMC and each of which performs the same cargo handling function that is in dispute.

Application of the foregoing presumption and prudential factor is likely to eliminate most of the need to apply substantive Shipping Acts standards, which address pricing and commercial practices, to labor agreements. As to those cases in which the FMC must still decide the merits of labor agreements the FMC should at least consider and give weight to likely alternatives to the labor agreement and to the usually very substantial transportation costs of upsetting such an agreement. If, as is almost certainly the case, the probable costs of alternatives to the Rules on Containers are very substantial and exceed harm demonstrated by the NVOCC/consolidators or by any actual shippers and consignees of cargo, the Rules should be upheld as reasonable.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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